

**REMARKS/ARGUMENTS**

Claims 1-31 remain in the application.

**A. Rejections under 35 U.S.C. 102.**

Claims 1-5, 7, 9-11, 15, 16, 19, 20, 22, 23, 25,-27 and 29-31 were rejected under 35 U.S.C. 102 based upon Doshi et al. This rejection is respectfully traversed.

Independent claim 1 calls for, among other things, an interface to the shared bandwidth communication network operable to transport data for a plurality of users and a front-end server coupled to the interface to select the rate and order at which data is supplied through the interface. At least these features of claim 1 are not shown or suggested in the relied on reference.

Doshi et al. do not show or suggest a system in which both the rate and the order of data supplied through an interface to a shared bandwidth connection is selected or controlled.

Doshi et al. describe a system that operates on voice traffic originating and terminating on "regular Public Switched Telephone Network circuit switches". PSTN circuits are not "shared bandwidth" as that term is used in the specification and claims of the present application. The system in the Doshi reference presents a system for conducting voice traffic over an IP network. The "shared bandwidth communication network" of claim 1 is not intended to be include either a circuit switch connection or an IP network.

Moreover, provisioning server 230 that provides information to gateways 250 so that the gateways can decide whether to accept or reject a new call request. This accept/reject decision is not the same as allowing the gateway 250 to select the order in which data is provided to a shared bandwidth network. Similarly, the accept/reject decision made by the Doshi et al. gateway does not select or otherwise regulate the rate at which data is fed into a shared bandwidth

network. Once a call is accepted, the rate and order of data transmission is determined on a first-in, first out basis.

For at least these reasons claim 1 is not shown or suggested by the relied on reference. Claims 2-5, 7, 9, and 10 are allowable for at least the same reasons as claim 1 from which they depend. Moreover, dependent claims 2-5, 7, 9 and 10 include limitations that are neither shown nor suggested by Doshi et al. For example the cited portion of Doshi et al does not mention anything about relative priority of the data called for in claim 2 and claim 5. For at least these reasons the rejections of claims 1, 2-5, 7, 9 and 10 should be withdrawn.

Claim 11 calls for, among other things, communicating data transmissions in a prioritized fashion to the shared bandwidth communication system, the Office action relies only on a restatement of the rejection of claim 1, and does not even state that this element of claim 11 is shown or suggested by Doshi et al. Accordingly, the Office action fails to state a prima facie case of anticipation or obviousness of claim 11 and the rejection should be withdrawn. Claims 15, 16, 19, 20, 22 and 23 that depend from claim 11 are allowable for at least the same reasons as claim 11 as well as for the limitations recited in those claims.

Independent claim 25 and dependent claims 26-27 and 29 call for means to selectively apply data from the buffers to the interface so as to communicate the data to the shared bandwidth communication network in a manner that prioritizes some data in the buffer over other data in the buffer. The Office action relies only on a restatement of the rejection of claim 1, and does not state that these element of claims 25-27 and 29 are shown or suggested by Doshi et al. Accordingly, the Office action fails to state a prima facie case of anticipation or obviousness of claims 25-27 and 29 and the rejection should be withdrawn.

Likewise, independent claim 30 and dependent claim 31 include limitations that are not included in claim 1. One might even say that there is very little similarity between claim 1 and claim 30. Because the Office action only states that these claims are rejected "for similar reasons stated above", the

Office action fails to state a prima facie case of anticipation or obviousness. It is respectfully requested that the rejection be withdrawn.

**B. Rejections under 35 U.S.C. 103.**

Claims 6 and 21 were rejected under 35 U.S.C. 103 based upon Doshi et al. in view of Yamashita et al. Claims 8 and 24 were rejected under 35 U.S.C. 103 based upon Doshi et al. in combination with a taking of Official notice. Claims 12-14, 17 and 18 were rejected under 35 U.S.C. 103 based upon Doshi et al. in view of Brown et al. Claim 28 was rejected under 35 U.S.C. 103 based upon Doshi et al. in view of Kaczynski. These rejections are respectfully traversed.

Neither Yamashita et al., Brown et al, nor Kaczynski supply the deficiencies of Doshi et al. noted above. Moreover, in each case the motivation for the combination or changes suggested in the Office action comes strictly from Applicant's own teaching, which cannot be used against him. Further still, many of the rejections simply state "for similar reasons as stated above" even though the limitations in the claims are quite distinct from each other. For at least these reasons the rejections of claims 6, 21, 8, 24, 12-14, 17, 18, and 28 should be withdrawn.

**C. Conclusion.**

The references that were cited but not relied upon are no more relevant than the references that were relied upon. In view of all of the above, the claims are now believed to be allowable and the case in condition for allowance which action is respectfully requested. Should the Examiner be of the opinion that a telephone conference would expedite the prosecution of this case, the Examiner is requested to contact Applicants' attorney at the telephone number listed below.

This response is filed together with a request for a three month extension of time and the required fee. Any fee deficiency associated with this submittal may be charged to Deposit Account No. 50-1123.

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Respectfully submitted,



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